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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,722	02/25/2002	Frederic Gaviot	PHFR 010020	8254

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BRIARCLIFF MANOR, NY 10510

EXAMINER

HOSSAIN, FARZANA E

ART UNIT	PAPER NUMBER
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2424

MAIL DATE	DELIVERY MODE
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09/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/084,722	Applicant(s) GAVIOT ET AL.	
	Examiner FARZANA HOSSAIN	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/20/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/20/2009 has been entered.

Response to Amendment

2. This office action is in response to communications filed 08/20/2009. Claims 1, 7 and 8 are amended. Claims 2-6 have been previously presented.

Response to Arguments

3. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Regarding Claim 1, the applicant argues that a claim is anticipated only if each and every element as set forth in the claim is found in a single prior art reference (Page 7). The applicant argues that Slezak discloses a multimedia architecture for interactive

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advertising in which secondary programming is varied based on viewer demographics; however, there is no disclosure of the disclosure of the user device of accelerated reading of a recorded program (Page 10). The applicant also argues that Slezak does not disclose what is missing in Neel (Page 10). The applicant argues that Neel does not disclose generating an information signal consisting essentially of control information and input broadcast program comprising at least one particular event and transmitting the information signal to each user (Page 8).

In response to the applicant, the examiner respectfully disagrees. Slezak discloses generating an information signal (Column 8, lines 18-39, Column 9, lines 6-10) consisting essentially of control information including the graphical message and signals allowing users to choose between subscriptions (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4) and an input broadcast program comprising at least one particular event (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4) –and a program as an information signal with graphic/overlay/message with primary and secondary program is sent to the user for selecting a subscription. See new rejection for Claim 3.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 and 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Slezak (US 6,006,257).

Regarding Claim 1, Slezak discloses a method using a telecommunication system (Figure 1) to enable a service provider (Figure 1, 510, 520) to differentiate among a plurality of subscriptions originated by a plurality of users to a service in respect of processing one or more input broadcast programs (Column 3, lines 63-67, Column 4, lines 1-4), each input broadcast program comprising at least one particular event (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4), the method comprising:

Generating an information signal (Column 8, lines 18-39, Column 9, lines 6-10, 39-55) consisting essentially of control information including the graphical message and signals allowing users to choose between subscriptions and information allowing a user to forward shift a video or not forward shift a video based on the subscription (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Column 9, lines 6-10, 39-55) and an input broadcast program comprising at least one particular event (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4);

Transmitting the information signal to each user (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7);

Offering the plurality of subscriptions having various subscriptions durations to the user as there is a pay level without commercials (the program only), discounted pay

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level (some commercials with the program) and a free level (more commercials with the program) (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4);

The user making a choice of subscription using a device comprising means for effecting the choice, the device further comprising means for selecting (Figure 1, 504, Column 8, lines 18-39, remote control unit, keyboard, mouse, Column 3, lines 63-67, Column 4, lines 1-4); and

Validating the user's choice of subscription and configuring the means for selecting to be responsive to the control information in dependence on the subscription choice (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-);

Wherein the means for selecting (Column 8, lines 18-39, remote control unit, keyboard, mouse) operates on the input broadcast program comprising at least one particular event in dependence on the control information to selectively provide an output broadcast program or the input program relies on the program including the advertisement (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4), the particular event being included or not included in the output broadcast program according to the chosen subscription in accordance with the control information or based on the control information or information that determines which subscription the user will select and may or may not include the particular event or advertisement (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4).

Regarding Claim 2, Slezak discloses all the limitations of Claim 1. Slezak discloses that the control information contains a table of events or a database of

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advertisements (Column 6, lines 15-24, 38-47, Column 8, lines 43-53). It is necessarily included that a database is organized structure of information which can be interpreted to be a table of information. Slezak discloses an act of selecting a particular event on the basis of an event status value in the table or database (Figure 7, Column 9, lines 2-20, Column 8, lines 18-53).

Regarding claim 4, Slezak discloses all the limitations of Claim 1. Neel discloses the particular event includes at least one advertisement (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4),).

Regarding claim 5, Slezak discloses all the limitations of Claim 1. Neel discloses the act of the user making the choice of the subscription comprises an act of selecting one subscription from among several subscriptions including different programs and a pay level and free level for the different programs offered on a graphics interface in communication with the device (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4), 4).

Regarding claim 6, Slezak discloses all the limitations of Claim 1. Slezak discloses the validating step is implemented by the service provider by sending the device a signal characteristic of the chosen subscription (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4), the signal being suitable for configuring the means for selecting as a function of the chosen subscription as the service provider sends either the paid version of the program, discount version or the free version with the particular event (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7).

Regarding Claim 7, Slezak discloses a device for presenting an output broadcast program in accordance with a subscription chosen by a user (Figure 1, 504, Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4), the device comprising:

means for receiving an information signal or the receiver (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7, Column 9, lines 6-10) receiving an information signal consisting essentially of control information including a message and signals allowing users to choose between subscriptions and movies and information allowing a user to forward shift a video or not forward shift a video based on the subscription (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Column 9, lines 6-10, 39-55, Figure 7) and an input broadcast program having at least one particular event or an advertisement (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7); and

Means for selecting the particular event in dependence on the control information, the selection means configurable by a provider of the information signal to be responsive to the control information on the basis of the subscription chosen by the user (Column 8, lines 18-39, remote control unit, keyboard, mouse, Column 3, lines 63-67, Column 4, lines 1-4, Figure 1, 504, Figure 7) for at least one of various durations as there is a pay level without commercials (the program only), discounted pay level (some commercials with the program) and a free level (more commercials with the program) (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7),

Wherein the selecting means (Column 8, lines 18-39, remote control unit, keyboard, mouse) operates on the input program having at least one particular event to selectively provide the output broadcast program (Column 8, lines 18-39, remote control unit, keyboard, mouse, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7), the particular event being included or not included in the output broadcast program according to the subscription chosen by the user in accordance with the control information based on the control information or information that determines which subscription the user will select and may or may not include the particular event or advertisement (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Figure 1, 5042).

Regarding Claim 8, Slezak discloses a device for presenting an output broadcast program (Figure 7, Figure 1, 500, 502, 504), the device comprising:

means for receiving an information signal (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7, Column 9, lines 6-10) consisting essentially of control information including the control screen and signals allowing users to choose between subscriptions and movies and information allowing a user to forward shift a video or not forward shift a video based on the subscription (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Column 9, lines 6-10, 39-55, Figure 7) and an input broadcast program having at least one particular event or an advertisement (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7, Column 9, lines 6-10);

Means for selecting the particular event in dependence on the control information (Column 8, lines 18-39, remote control unit, keyboard, mouse, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7), the selection means being configurable by a provider of the information signal to be responsive to the control information on the basis of the subscription chosen by the user (Column 8, lines 18-39, remote control unit, keyboard, mouse, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7) for at least one of various durations as there is a pay level without commercials (the program only), discounted pay level (some commercials with the program) and a free level (more commercials with the program) (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7);

Wherein the selecting means operates on the input program having at least one particular event to selectively provide the output program (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7), the particular event being included or not included in the output program according to the subscription chosen by the user in accordance with the control information based on the control information or information that determines which subscription the user will select and may or may not include the particular event or advertisement (Column 8, lines 18-39, Column 3, lines 63-67, Column 4, lines 1-4, Figure 7).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slezak in view of Akamatsu et al (US 7,257,132 and hereafter referred to as "Akamatsu").

Regarding Claim 3, Slezak discloses all the limitations of Claim 1. Slezak discloses the device comprises means for accelerated reading of the program (Column 9, lines 22-24); and means for deactivation for deactivating the accelerated reading means (fast-forwarding) of the program during the particular event in respect of a specified subscription in accordance with control information or control data defining the subscription as a one which a viewer must view the advertisement to get a free or reduced cost programming and a forward shift is not allowed until the must view event is viewed. (Column 9, lines 53-60). Slezak does not explicitly disclose that a pay program can be recorded therefore, recording the program. In analogous art, Akamatsu disclose a pay program can be recorded therefore, recording the program (Column 7, lines 16-19). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Slezak to include a pay program can be recorded therefore, recording the program (Column 7, lines 16-19) as taught by Akamatsu in order to allow a user to record pay programs without illegally recording pay programs (Column 14, lines 13-30) as taught by Akamatsu.

Conclusion

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FARZANA HOSSAIN whose telephone number is (571)272-5943. The examiner can normally be reached on Monday 7:30 am to 1:30 pm, Tuesday 7:30 am to 2:30 pm and Wednesday to Friday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FARZANA HOSSAIN/
Examiner, Art Unit 2424

September 18, 2009